

NEWS & INSIGHTS

Staffing agencies still learning how to comply with new state law

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Pennsylvania staffing agencies that supply their workers to long-term care facilities are still working to comply with a late 2022 bill that requires much more oversight than they have been used to.

And one requirement of the bill – banning noncompete clauses in employment contracts – has proven particularly daunting for all healthcare staffing agencies.

The law, an amendment to the Health Care Facilities Act, passed with the support of the Pennsylvania Health Care

Association in November 2022, shortly before Gov. Tom Wolf left office. It mostly concerns requirements for staffing agencies that supply workers to nursing homes, assisted living residences and personal care homes. The law requires those agencies to register with the state, to abide by the same Pennsylvania Department of Health regulations (and penalties) that long-term care facilities do, and carry medical malpractice insurance and other requirements.

However, the law also required all staffing agencies to end the practice of using noncompete clauses in contracts with their healthcare workers. That follows a national trend in which noncompete clauses and other restrictive covenants in employment contracts are coming under increased scrutiny. For example, the Federal Trade Commission proposed a rule in January 2023 that would [ban all employers from imposing noncompete agreements](#) on their workers.

The Pennsylvania law took effect at the time of its signing and staffing agencies have been working ever since to comply, especially with regard to noncompete clauses. Staffing agencies have long used noncompete clauses to avoid losing their own workers to full-time positions with long-term care facilities. Noncompete clauses proved especially helpful to staffing agencies during the COVID-19 pandemic when full-time healthcare workers left the industry in large numbers, causing a shortage of workers. Temporary employees were often off-limits for full-time hire because of the noncompete clauses in their contracts.

While the law is a win for long-term care facilities that continue to struggle looking for skilled workers, staffing agencies already struggling to find workers now have this additional barrier with which they must contend. But options do remain for those staffing agencies feeling the pinch.

If you have any questions on how this new law is affecting your staffing agency or how you can effectively work within the confines of the law, please [reach out to me](#) at any time.

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